United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
Eastern Washington Field Office
11103 East Montgomery Drive
Spokane Valley, Washington 99206

In Reply Refer To:
01EWFW00-2015-I-0006

JUN 2 6 2015

Karen Keeley
Remedial Project Manager
US Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

Dear Ms. Keeley:

Subject: Midnite Mine Superfund Site Clean-up Project and Discharge Pipe

This letter is in response to your request for informal consultation on the proposed Midnite Mine Superfund Site Clean-up Project in Stevens County, Washington. On October 1, 2014, our office received your request for consultation and the Biological Assessment. The US Environmental Protection Agency (EPA) has requested concurrence on a "may affect, not likely to adversely affect" determination for bull trout *(Salvelinus confluentus)*. This informal consultation has been conducted in accordance with section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

Your BA also includes a "no effect" determination for grizzly bear, Canada lynx, and Ute ladies tresses. There is no requirement for concurrence by the Service on "no effect" determinations. Therefore, your determinations rest with the action agency.

The EPA enforces and approves superfund site remediation and clean-up under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and authorizes discharges of pollutants into U.S. waters under the Clean Water Act (CWA). Under their CERCLA and CWA authorities, the EPA proposes the Midnite Mine Superfund Site Clean-up and installation of a new discharge pipe in Lake Roosevelt. The proposed project will involve the consolidation, containment, and disposal of contaminated materials within the Mine Fence Area, Rhoads Borrow Area, Blue Creek Pipeline, Haul Road, and Drainage areas. Contaminated groundwater will be pumped and treated at the Waste Treatment Plant and discharged in Lake Roosevelt/Columbia River. Additional elements of the proposed project include the relocation, construction and operation of the discharge pipe from the Waste Treatment Plant. Ground disturbing, remediation, treatment, and construction activities will impact

approximately 603 acres of land within the Spokane Tribe of Indians Reservation and the Lake Roosevelt National Recreational Area.

The Blue Creek Pipeline will cross Blue Creek and extend approximately 3,600 feet into Lake Roosevelt. The work area will involve a 4-foot wide work area. Construction of the pipeline into Lake Roosevelt is proposed to occur in 2016. The pipeline will be placed two to four feet below the lake bed surface during periods when the lake bed is dry to minimize turbidity and in-water work. In inundated areas, the pipeline will be assembled on shore, floated into position, and sunk with concrete anchors. When water levels are low, the exposed pipe will be buried in the lake bed.

The EPA also proposes to issue a National Pollution Discharge Elimination System (NPDES) permit for discharge out of the new pipe. Effluent from the Waste Treatment Plant currently meets Spokane Tribe of Indians water quality standards for most elements. It is expected that effluent out of the new pipe will meet or exceed all water quality standards within the anticipated mixing zone of 190 feet. Discharge and effluent are not expected to be measureable over background conditions outside of 190 feet from the end of the discharge pipe.

The Service concurs that the proposed project is "not likely to adversely affect" the bull trout. Our concurrence is based on the Biological Assessment, information in your letter, and the rationale described in the following paragraphs.

Bull Trout

The proposed project occurs within and adjacent to the Lake Roosevelt National Recreation Area on the Columbia River. The area is included in the Northeast Washington Research Needs Area of the Mid-Columbia Recovery Unit for bull trout (USFWS 2014; 2015). Activities associated with the proposed project are located in upland areas adjacent to the Columbia River; in Blue Creek, a tributary to the Spokane River; and in the Lake Roosevelt/Columbia River.

Bull trout in the project area are extremely rare. Historically, populations occurred in several tributaries to the Columbia River above Grand Coulee Dam (Lake Roosevelt). However, currently no spawning populations exist within the Northeast Washington Research Needs Area, although suitable spawning habitat is located in several tributaries to Lake Roosevelt. Since 2011, fewer than 25 bull trout have been documented in tributaries of the Lake Roosevelt or in Lake Roosevelt/Columbia River itself. The majority of observations occur in the north end of Lake Roosevelt near the Canadian border with infrequent observations in the mouths of tributaries including the Spokane and Sanpoil rivers. Bull trout observation data is not well tracked, is sporadic, and often anecdotal. Bull trout present in Lake Roosevelt likely derive from local populations in the Coeur d'Alene/Spokane River or Pend Oreille River basins, or from tributaries to the Columbia River in Canada and have been entrained over dams.

Terrestrial activities are expected to have no impact on bull trout or suitable habitat utilized by bull trout. Construction activities related to installation of the new discharge pipe crossing Blue Creek and into Lake Roosevelt/Columbia River will result in minor increases in turbidity and sediment disturbance, minor elevated noise, and short-term passage barriers in aquatic habitat in Blue Creek. However, due to the extremely low likelihood of bull trout presence and lack of documentation of bull trout use in Blue Creek, these impacts are expected to be discountable. Effluent released from the discharge pipe into the Columbia River/Lake Roosevelt has the potential to impair bull trout behavior and water quality within 190 feet of the discharge. The rarity of bull trout in Lake Roosevelt/Columbia River makes it extremely unlikely that bull trout will experience effects from the release of effluent into Lake Roosevelt. In addition, treatment of effluent prior to release will further minimize the potential for effects to bull trout by reducing the area affected. Therefore, due to low likelihood of presence and lack of measureable effects, all project impacts are expected to be insignificant and discountable.

The project should be reanalyzed if new information reveals effects of the action that may affect listed species or critical habitat in a manner, or to an extent, not considered in this consultation and/or a new species is listed or critical habitat is designated that may be affected by the actions.

If you have any questions about this letter or your responsibilities under the Act, please contact Erin Kuttel at (509) 893-8029 or erin_brittonkuttel@fws.gov.

Sincerely,

For Eric V. Rickerson, State Supervisor
Washington Fish and Wildlife Office

LITERATURE CITED

USFWS 2015. Draft Mid-Columbia Recovery Unit Implementation Plan for Bull Trout Recovery Plan. Oregon Fish and Wildlife Office U.S. Fish and Wildlife Service. Portland, OR. June 2015.

USFWS 2014. Revised Draft Recovery Plan for the Coterminous United States Population of Bull Trout *(Salvelinus confluentus)*. Pacific Region, U.S. Fish and Wildlife Service. Portland, Oregon. September 2014.